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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,617	02/05/2004	John P. Streich	0275Y-227DVD	5076
27572	7590	06/05/2006	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C.			LUGO, CARLOS	
P.O. BOX 828			ART UNIT	
BLOOMFIELD HILLS, MI 48303			PAPER NUMBER	
			3676	

DATE MAILED: 06/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/772,617	Applicant(s) STREICH ET AL.	
	Examiner Carlos Lugo	Art Unit 3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-25, 27, 30-32, 66, 67, 69 and 70 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-25, 27, 30-32, 66, 67, 69 and 70 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on May 15, 2006.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 22,24,27,30,31, and 69 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,283,932 to Richardson et al (Richardson) in view of US Pat no 3,710,761 to Gregory.

Regarding claim 69, Richardson discloses a latch comprising a body (30); a channel in the body for receiving a rail (11) and being defined by a base surface (32), two sidewalls (where 33 and 34 are pointing in Figure 3) extending from the base and two flanges (33a and 34a) extending from the sidewalls towards one another.

The latch further includes a first member (35) covered by a second member (33 and 34), wherein a portion of the first member (top portion of 35) extends through the second member providing an indicia member and the portion having a surface substantially flush with the second member.

However, Richardson fails to disclose that the base surface is arcuate. Richardson illustrates that the base surface (32) has a flat shape.

Gregory teaches that it is well known in the art of latches to provide a latch (17) having a base surface that has a shape that complements the shape of the rail. At

the instant, Gregory illustrates that the base surface shape is arcuate that complements the shape of the rail.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the base surface described by Richardson with an arcuate shape, as taught by Gregory, since a change in the shape of a prior art device is a design consideration within the level of skill of one skilled in the art.

As to claim 22, Richardson, as modified by Gregory, illustrates that the base surface is arcuate along both a longitudinal and lateral axis.

As to claim 24, Richardson illustrates that the indicia indicates a locked and unlocked position (unlock, Figure 3, fully locked, Figure 4).

As to claim 27, Richardson illustrates that the first member (35) is capable of provide rigidity to the latch.

As to claim 30, Richardson, as modified by Gregory, illustrates that the body has an arcuate outer surface enables manipulation by a user.

As to claim 31, Richardson discloses that the second member (33 and 34) is a soft material providing a gripping surface.

4. **Claim 23 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,283,932 to Richardson et al (Richardson) in view of US Pat no 3,710,761 to Gregory as applied to claim 69 above, and further in view of US Pat No 4,576,307 to Frydenberg.

Richardson, as modified by Gregory, fails to disclose that one of the flanges includes a cutout enhancing coupled with the rails.

Frydenberg teaches that it is well known in the art to have a latch (16 and 30) that comprises opposing flanges, wherein at least one flange includes a cutout enhancing that would be coupled with the rails (at the sides of 18).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the latch member described by Richardson, as modified by Gregory, with a cutout at either flange, as taught by Frydenberg, in order to help in the insertion of the latch around the rails.

5. **Claim 25 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,283,932 to Richardson et al (Richardson) in view of US Pat no 3,710,761 to Gregory as applied to claim 24 above, and further in view of US Pat No 6,981,299 to Savicki.

Richardson, as modified by Gregory, fails to disclose that the indicia also indicate direction.

Savicki teaches that it is well known in the art of latches to provide directional indicia in order to aid a user to move the latch (arrow in Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device described by Richardson, as modified by Gregory, with directional indicia, as taught by Savicki, in order to aid a user to move the latch.

6. **Claim 32 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,283,932 to Richardson et al (Richardson) in view of US Pat no 3,710,761 to

Gregory as applied to claim 69 above, and further in view of US Pat No 5,275,027 to Eklof et al (Eklof) and in view of US Pat No 4,153,178 to Weavers.

Richardson, as modified by Gregory, fails to disclose that the first member is formed from polypropylene and the second member formed from krayton.

Weavers teaches that it is well known in the art to use polypropylene as a material to make a member of a latch (Col. 3 Lines 10-15).

Eklof teaches that krayton is also a well-known material to make a member of a latch (Col. 4 Lines 29 and 30).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use materials as polypropylene and krayton, as taught by Weavers and Eklof, to make or manufacture a latch as described by Richardson, as modified by Gregory, since the selection of a known material based upon its suitability for the intended use is a design consideration within the level of skill of one skilled in the art.

7. **Claims 66,67 and 70 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,283,932 to Richardson et al (Richardson) in view of US Pat no 3,710,761 to Gregory as applied to claim 24 above, and further in view of US Pat No 6,442,804 to Turvey et al (Turvey) and US Pat No 3,660,875 to Gutman.

Richardson, as modified by Gregory, fails to disclose that the second member includes indicia, wherein the first and second indicia have a distinctive color.

Turvey teaches that it is well known in the art of latches to provide a first and a second member (30 and 60) with corresponding indicia.

It would have been obvious to one having ordinary skill in the art of latches at the time the invention was made to provide the first and the second members described by Richardson, as modified by Gregory, with indicia, as taught by Turvey, in order to give the appropriate indication to the user.

As to the colors, Gutman teaches that it is well known in the art to use colors as indicators (Col. 3 Lines 1-6).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device described by Richardson, as modified by Gregory, with colors, as taught by Gutman, in order to aid the user.

Response to Arguments

8. After further search and/or consideration, a new non-final Office Action has been made on the record.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3676

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

C.C.

Carlos Lugo
Patent Examiner AU 3676
May 26, 2006.

A handwritten signature in black ink, appearing to read "Brian Glessner", followed by a long horizontal flourish line.

BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER